

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:07mj005**

UNITED STATES OF AMERICA

Vs.

TROY STEVEN MESSER.

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ORDER

THIS CAUSE coming on to be heard and being heard before the undersigned, pursuant to a motion made by the defendant on January 18, 2007 requesting that the defendant be considered as being eligible for court appointed counsel and it appearing to the court at the call of this matter on for hearing that the defendant was present, that attorney Russell L. McLean was present and that the Government was present through Assistant United States Attorney, Corey Ellis and it appearing to the court that from statements made by Mr. McLean that the defendant had desired to retain Mr. McLean but due to the fact that the defendant had owed Mr. McLean fees in regard to Mr. McLean's representation of the defendant in a previous civil matter, it appeared that the defendant did not have the cash financial resources to be able to retain Mr. McLean. As a result, the court allowed the defendant to file a financial affidavit so that the court could consider his net financial resources and income. The undersigned examined, in detail, the financial affidavit. It appears that the defendant owns a tract of land consisting of approximately 41.519 acres located in Haywood County, NC. The defendant has valued this property at \$100,000. Considering the court's knowledge of the value of real property in Western North Carolina,

the undersigned is of the opinion that the valuation of this property by the defendant is inaccurate and that the fair market value of the property should be a sum well in excess of that amount. The undersigned has further considered that the defendant is obligated to pay a Promissory Note , the payment of which is secured by a Deed of Trust creating a lien upon the above described real estate. As a result of considering the affidavit and this information, the undersigned has determined that the defendant is partially eligible for the appointment of counsel as set forth under the Guide to Judiciary Policies and Procedures, Volume VII, 2, Part A 2.05. It appears from the affidavit filed by the defendant that the defendant's net financial resources and income anticipated prior to trial are in excess of the amount needed to provide him and his dependants with the necessities of life and to provide the defendant's release on bond, but are insufficient to pay fully for retained counsel.

ORDER

IT IS THEREFORE **ORDERED** that the defendant is to pay, from his available excess funds and assets the cost of his court appointed counsel in such amounts and at such times as the District Court shall determine.

Signed: January 24, 2007

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Dennis L. Howell
United States Magistrate Judge

